

Remarks

There is no rejection outstanding against claims 27, 43 and 88. Claims 27 and 43 are in their original form and have been pending in the application since the application was filed. Claim 88 has been pending in its current form since it was added in the November 9, 2006 Amendment. Accordingly, under MPEP 706.07(a), the finality of the October 19<sup>th</sup> Office action is premature.

Moreover, under MPEP 706.07(a), “a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art....of any claim not amended by applicant ... in spite of the fact that other claims may have been amended to require newly cited art.” Claims 91 and 92 stand rejected under 35 U.S.C. § 103 over Schultz in view of Empedocles et al. Schultz is a newly cited reference. Claims 91 and 92 are previously pending claims 12 and 13 rewritten in independent form to include the claims from which they depend. They have not been amended. Therefore, under MPEP 706.07(a), the finality of the October 19<sup>th</sup> Office action is premature based on these facts as well.

In light of these facts, the characterization of the October 18, 2007 Office action as Final is premature. Accordingly, Applicant respectfully requests that the finality of the October 18<sup>th</sup> Office action be withdrawn.

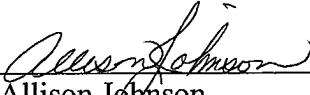
Applicant submits that the statements in their December 18, 2007 Response After Final, when read carefully in conjunction with the cited references, overcome all of the rejections of record. Applicant expressly traverses all of the statements in the January 9, 2008 Advisory Action.

The claims now pending in the application are in condition for allowance. Applicant respectfully requests that the Examiner issue a Notice of Allowance and pass the application to issuance. The Examiner is invited to telephone the undersigned should a teleconference interview facilitate prosecution of this application.

Please charge any additional fees owing or credit any over payments made to  
Deposit Account No. 501,171.

Respectfully submitted,

Date: January 16, 2008

  
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